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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
IDF 1398 (4000-00700)

I hereby certify that this correspondence is being electronically submitted to the U.S. Patent and Trademark Office website, www.uspto.gov" [37 CFR 1.8(a)]
on 12/7/2006
Signature Edith Shek

Typed or printed name Edith S. Shek

Application Number	Filed
09/698,729	October 27, 2000

First Named Inventor
Brandon Camp

Art Unit	Examiner
2195	Kenneth Tang

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)
- ☑ attorney or agent of record. Registration number 39,624
- ☐ attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____

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12-07-06
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☑ *Total of 1 forms are submitted.

REASONS FOR REQUESTING PRE-APPEAL BRIEF REVIEW

Applicants request review of the claim rejection under 35 USC § 103 where Claims 1-6 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klein (US 5,835,763) in view of Bowman-Amuah (US 6,640,244).

ARGUMENT

THE OFFICE ACTION FAILS TO CONSIDER ALL THE CLAIM ELEMENTS

In determining the patentability of a claim against the prior art, all words in the claim must be considered. In re Wilson, 424 F. 2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). But, from the inception of prosecution with the office action mailed 03/15/2004, the claim 1 element limitation of "wrapping the batch job to create an application programming interface for communication with a batch framework" has never been mapped or otherwise included in any office action analysis rejection.

Independent claim 1 recites:

> 1. A method for processing a batch job, comprising:
> **wrapping the batch job to create an application programming interface for communication with a batch framework**, the batch framework comprising a batch dispatcher class, and the batch dispatcher class further comprising a method to execute the batch job; and
> invoking the batch framework according to a predetermined schedule via execution of a a command line parameter, wherein the method provides for efficient reuse of programming code and platform independence by encapsulating the batch job and providing a uniform application programming interface for an application processing the batch job according to the method.

(emphasis added) August 11, 2006 Response to Final Office Action. Further, this claim 1 limitation is not and has never been present, either expressly or inherently, in the cited and applied prior art, now more recently the *Klein* and *Bowman-Amuah* references.

Nowhere in *Klein* or *Bowman-Amuah* is the claimed element of "wrapping the batch job to create an application programming interface for communication with a batch framework" disclosed

or suggested. The Office Action rejection of claim 1, reproduced below, is mapped at pages 2 and 3, paragraphs 4-6 of the Office action:

> 4. As to claim 1, Klein teaches a process for processing a batch job, comprising: wrapping the batch job to create an application programming interface (API) for communication with a batch framework, the batch framework comprising a method to execute the batch job; and invoking the batch framework according to a predetermined schedule *(col. 3, lines 31-54)*. Klein also teaches using a command line parameter for a batch framework *(col. 9, lines 60-63, col. 10, lines 25-32)*.
>
> 5. Klein does teach a method to execute the batch job with using a uniform APIs to control it *(col. 11, lines 7-11 and col. 5, lines 49-54)*. Klein explicitly fails to disclose using classes to dispatch the batch jobs and for efficient reuse of programming code and platform independence by encapsulating the batch job.
>
> 6. However, Bowman-Amuah teaches batch processing with classes to dispatch jobs *(col. 4, lines 30-35, etc.)*, encapsulating data objects *(col. 12, lines 54-59)* execution of a command line parameter (executing commands, etc.) with efficient reuse of programming code *(col. 13, lines 17-28, etc.)*, platform independence and Java API *(col. 16, lines 1-12)*. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Klein and Bowman-Amuah because there are many benefits of object classes such as simplification, protection, flexibility, etc. *(col. 12, lines 50-67 through col. 13, lines 1-29)*.

It is clearly evident from the reproduced section of the Office Action, supra, which claim elements are not mapped. Specifically, the unmapped claim elements are "wrapping the batch job to create an API" and "batch framework". Moreover, the other claim 1 citations in the office action have nothing to do with "wrapping the batch job to create an application programming interface (API) for communication with a batch framework." Col. 3, lines 31-54 discloses a thread enabling layer that includes one or more APIs. The cited passages from columns 9 and 10 provide definitional information for "ThreadName", "JOBQ" and "JOBD". Column 11, lines 7-11 disclose information regarding thread executing as batch jobs and APIs being used to control it. Finally, the column 5, lines 49-54 citation discloses information regarding each thread job accepting input from an API through a thread queue in a POSIX (asynchronous) compatible

format. Because *Klein* lacks any teaching of classes to dispatch the batch jobs, paragraph 6 of the Office Action incorporates citations from the *Bowman-Amuah* prior art reference. Nevertheless, none of the *Klein* or *Bowman-Amuah* citations included in the 35 U.S.C. 103(a) rejection of claim 1 read on or suggest the limitation of "wrapping the batch job to create an application programming interface (API) for communication with a batch framework." Furthermore, irrespective of the cited art, this limitation is absent from the disclosures of *Klein* or *Bowman-Amuah*.

A PRIMA FACIE CASE OF OBVIOUSNESS HAS NOT BEEN ESTABLISHED

One basic tenet in establishing a *prima facie* case of obviousness requires that the prior art reference or references teach or suggest all the claim limitations. Despite the lengthy prosecution history of this application, Applicants assert that a *prima facie* case of obviousness has never been properly established, and certainly cannot continue to be sustained here, where the entire independent claim limitation of "wrapping the batch job to create an application programming interface (API) for communication with a batch framework" is not only omitted from any office action analyses but also not taught or suggested by any of the applied prior art. Applicants' FIG. 1A, reproduced below, discloses this limitation:

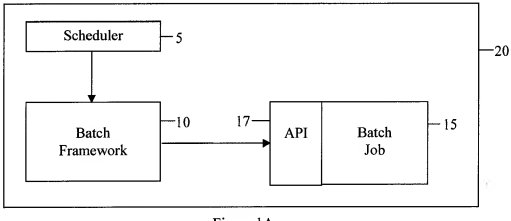

Figure 1A

Nowhere in the disclosure of either *Klein* or *Bowman-Amuah* is there a disclosure or suggestion of wrapping the batch job 15 to create an API 17 for communication with a separate batch framework 10. Therefore, a *prima facie* case of obviousness cannot be has not been established.

PRAYER FOR RELIEF

Based on the foregoing, Applicants assert that a *prima facie* case of obviousness has not been established and therefore the rejection of claim 1 as being unpatentable over *Klein* in view of *Bowman-Amuah* is clear error and must be withdrawn. Claims depending from a nonobvious independent claim are considered nonobvious. In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Claims 2-21 depend from claim 1. Therefore, the rejection of claims 2-21 must also be withdrawn.

Applicants respectfully pray that the decision of the panel in this case results in allowance of the application or, in the alternative, reopening of prosecution.

Respectfully submitted,
CONLEY ROSE, P.C.

Date: 12-07-06

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